THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.18691 of 2006

Date 11-6-2007

Between:
The D.E.O. Nizamabad District and others.

.....PETITIONERS

AND

Sri Maruthi and others.

.....RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.18691 of 2006

ORDER: (per Smt. T. Meena Kumari,J)

Aggrieved by the orders passed by the A.P. Administrative Tribunal in O.A. No. 3310 of 2003, dated 28.2.2006, the petitioner-Department filed the present writ petition.

The respondents herein and certain others were appointed as Secondary Grade Teachers in various schools of Nizamabad District. While so, they filed O.A. Nos. 3310 of 2003 and 3311 of 2003 before the Tribunal seeking a direction that they are eligible for promotion to the post of School Assistant (Biological Sciences/Physical Sciences) as per seniority in terms of the Rules issued under G.O. Ms. No. 49, Education Department, dated 14.5.2002, by holding the action of the respondents in not considering their claim for promotion as School Assistants(Biological Sciences/Physical Sciences) as illegal and arbitrary.

Initially, the Tribunal issued interim direction to the department to consider the case of the respondents herein for promotion to the post of School Assistants (Biological Sciences/Physical Sciences) subject to the seniority and suitability as per Rules in the ensuing counselling. However, through the impugned order, the Tribunal disposed of the O.As. by following its earlier judgment in O.A. Nos. 10028 and 8258 of 2002, dated 27.1.2005 and directed the Department to consider the case of the applicants in terms of the said order. In the said judgment, the Tribunal observed as under:

> "When the post of Biological Science is vacant it is denied to applicant on the ground that "Science" does not disclose whether it is

physical Science or Biological Science. If any clarity is required in this matter, necessary clarification have to be secured as to what are the steps and what type of training is required to those candidates who have acquired B.Ed., 'Science' qualification; that without doing so simply denying applicant's case for promotion on the ground that B.Ed., "science" means whether it is physical Science or Biological Science is illegal, unsustainable at this stage. Hence, as per the seniority and as per rules existing prior to G.O. Ms. No.538, the case of applicant should be considered for promotion. Even otherwise also, the applicant is entitled to be considered for promotion, as it is clarified that both physical science and Biological Science is one degree in two years B.Ed. course as per the syllabus prescribed by NCERT which stand on higher pedestal when compared to that of B.Ed., degree of one year of the State of Andhra Pradesh. Notional benefits should be given by such promotion by keeping him over and above his immediate juniors in the list of seniority and monetary benefits should be given subsequent to filing of the O.A."

In view of the fact that the subject matter of O.A. Nos. 3310 of 2003 and 3311 of 2003, impugned in this writ petition is similar to that of O.A. Nos. 10028 and 8258 of 2002, the Tribunal was justified in disposing of O.A. Nos. 3310 of 2003 and 3311 of 2003 by following the said judgment dated 27.1.2005, rendered in O.A. Nos. 10028 and 8258 of 2002.

In the circumstances, we do not find any illegality or irregularity in the order of the Tribunal warranting interference. The writ petition is accordingly dismissed. No costs.

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T. MEENA KUMARI,J

DATE: 11th June, 2007

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G. CHANDRAIAH,J

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